

CANADA / JUDGMENT

Lee v. Pacific Institution (Warden)

2023 BCSC 793

COURT

Supreme Court of British Columbia

DECIDED

10 May 2023

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2023 BCSC 793 Lee v. Pacific Institution (Warden)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Lee v. Pacific Institution (Warden),

2023 BCSC 793

Date: 20230510

Docket: 72814

Registry: Chilliwack

Between:

John Mark Lee Jr.

Applicant

And

Atilla Turi, Warden of Pacific Institution and

Parole Board of Canada

Respondents

Before: The Honourable Justice Walkem

Reasons for Judgment

The Applicant, appearing on their own behalf:

J.M. Lee Jr.

Counsel for the Respondents,

The Attorney General of Canada:

M.R.U.S. Islam

Place and Date of Hearing:

Chilliwack, B.C.

April 24, 2023

Place and Date of Judgment:

Chilliwack, B.C.

May 10, 2023

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BACKGROUND

[1] This is an application for a writ of habeas corpus with certiorari and mandamus in aid. The applicant, Mr. Lee, is serving a life sentence for first degree murder of a sixteen year old child. The murder occurred in 1986. Mr. Lee was sentenced in 1987 and has remained in prison since then. Mr. Lee has been eligible for full parole for approximately 11 years and has been denied each time he applied.

[2] The applicant identifies as "Mr. Lee" and prefers gender neutral pronouns. Mr. Lee is a two-spirited Indigenous person, of Mi'kmaq and Métis heritage, on their mother's side.

Preliminary Procedural Questions

[3] The Attorney General ("AG") raised two preliminary questions: (1) should the criminal or civil rules apply; and, (2) whether the issues raised in Mr. Lee's filings should be heard together, per Rule 22-5(8). I address those first.

- [4] An application for habeas corpus in the present circumstances is properly made under the Supreme Court Civil Rules: *Bacon v. Surrey Pretrial Services Centre (Warden)*, 2010 BCSC 805 at para. 21; and *Charlie v. British Columbia (Attorney General)*, 2016 BCSC 2292 [Charlie] at para. 6. Despite that such applications should be made by petition, the court can nonetheless consider a notice of application as though it were a petition: *Charlie* at para. 7.
- [5] The AG argues that the materials filed by Mr. Lee are "repetitive, disjointed, copied and pasted from other submissions, prolix, and irregular." There were at least 600 pages of documents filed, and hearing the overlapping applications separately would not be an efficient use of court time and could result in numerous court hearings over the same subject matter.
- [6] Under Rule 22-5(8), "proceedings may be consolidated at any time by order of the court or may be ordered tried at the same time or on the same day." Chief Justice Hinkson in *Callan v. Cooke*, 2020 BCSC 290 [Callan] at para. 123, commented on the appropriate considerations for when proceedings should be tried together under Rule 22-5(8) as follows:
- [123] There are two questions that must be addressed. The first question is: do common claims, disputes and relationships exist between the parties? That determination is made on a review of the pleadings. The second question is: are the actions so interwoven that separate trials at different times before different judges would be undesirable and fraught with problems and expense? This question involves a consideration of factors beyond the pleadings.
- [7] The overall object of the Rules is to "secure the first, speedy and inexpensive determination of every proceeding on its merits": R. 1-3.
- [8] The AG additionally notes that the court has inherent jurisdiction to control its own process and procedures.
- [9] Factors to consider in deciding whether to hear the applications together include efficient use of court time, especially given the multiple and overlapping applications, and whether joining the applications would avoid a duplicity of proceedings: *Callan* at para. 124.
- [10] The AG urged me to consider that Mr. Lee has been declared a vexatious litigant and "litigation terrorist" within the Alberta court system (*Lee v. Canada (Attorney General)*, 2018 ABQB 464 [Lee #2]); and a vexatious litigant by the Federal Court (*Canada (Attorney General) v. Lee*, 2019 FC 1614 [Lee #3]).
- [11] Mr. Lee has been involved in some litigation that largely covers the same or very similar issues to those being considered here. For example: *Lee v. Canada (Attorney General)*, 2018 ABQB 40 [Lee #1]; *Lee #2*; *Lee v. Canada (Correctional Service)*, 2017 FCA 228; *Lee #3*; *Lee v. Hache*, 2018 ABQB 88; *Lee v. Hache*, 2018 ABQB 384; *Lee v. Canada (Attorney General)*, 2011 ONSC 2490; among others. Mr. Lee has engaged in litigation against other parties, including the family of the child they were convicted of murdering.

- [12] Many issues raised in the applications, such as the requests to provide specific direction to the Parole Board of Canada ("PBC") or the Correctional Service of Canada ("CSC"), are matters that have been tried before by other courts in different jurisdictions.
- [13] There was no application before me to declare Mr. Lee a vexatious litigant. However, the AG argued that I should consider this litigation history in deciding whether to join the applications.
- [14] In Lee #2, the court summarized Mr. Lee's history of bringing applications as follows:
- [3] Mr. Lee's conduct during the Lee #1 action and other court proceedings established a pattern of litigation misconduct which led me to conclude that Mr. Lee may be an appropriate subject for court access restrictions by what is sometimes called a "vexatious litigant" order. Mr. Lee had:
1. conducted collateral attacks on previous litigation (paras 251-253);
 2. conducted hopeless litigation, including repeated abuse of the habeas corpus procedure (paras 254-260);
 3. brought litigation for improper purposes (paras 261-262);
 4. conducted persistent unsuccessful appeals (paras 263-264); and
 5. made unsubstantiated allegations of conspiracy and fraud against opposing lawyers and employees of Correctional Service Canada.
- [15] Mr. Lee argued that some of the overlap in pleadings, and other irregularities, stem from the fact that they are self-represented and making these arguments with limited resources. Mr. Lee submitted a copy of a psychological risk assessment report prepared by Dr. Druhn, which discusses that Mr. Lee has an obsessive compulsive disorder. Part of its focus is on what is "just" and taking steps to "correct" what Mr. Lee sees as unjust through filing complaints.
- [16] The overall set of applications filed by Mr. Lee are included as Appendix 1 to these reasons for judgment. This schedule was prepared based on a summary of Mr. Lee's applications prepared by the AG. This Court has no jurisdiction over many of these issues, as discussed herein. For example, Mr. Lee requested an Indigenous judge hear their application. This application is inappropriate. There is a strong presumption that judges rule fairly and impartially, which is not easily displaced: *Nadeau-Morrison v. Dunz*, 2020 ABPC 160.
- [17] I accept that the applications should be heard together. To not do so would result in multiple actions, trenching similar ground, and not be in the interests of justice. There are common claims, disputes and relationships between the parties. The actions are so interwoven that to separate each one would be inefficient and undesirable, and invite different judges to rule on the same subject matter, per Callan.

ISSUES

[18] Mr. Lee outlined their application in oral argument, summarizing their application for habeas corpus as follows:

1. A proposed transfer out of Pacific Institution where there was an Indigenous programming unit, Lalem, and into Mountain Institution.
2. They are being denied access to services within the CSC, and seek remedies for that. In particular that:
 - a) they should be afforded access to a computer and associated equipment, at cost postage, computer storage services, and storage for their legal files; and
 - b) a Wiccan High Priestess (employed or connected by CSC) be allowed to participate in court proceedings or a review of their file.

These can be characterized as requests to provide direction to-or order-the PBC or CSC to take specific actions.

3. That they are being wrongfully denied parole, and denied transfer to a lower security institution within CSC, because of inaccurate risk assessments. They say, in part:
 - a) as an Indigenous and two-spirited offender that their Indigenous heritage and life experience need to be considered in assessing risk. They have been incarcerated for approximately 36 years, and their current Indigenous life experience is as someone who has been institutionalized for that duration;
 - b) that their filing of applications for themselves, or habeas corpus and other applications on behalf of other prisoners, has led to a heightened risk assessment, and they disagree with this use of their advocacy activities;
 - c) the sentence they have served is excessive and disproportionate, and results in Charter violations, including of ss. 7 and 12; and,
 - d) it is necessary for their applications to be considered in light of the overall higher risks that Indigenous offenders are classified with, and that there should be a form of "Gladue habeas corpus" to address the warehousing of Indigenous offenders.

[19] Mr. Lee's written submissions were lengthy, often duplicated themselves, and were, at times, difficult to follow. Arguments made by Mr. Lee were clearer in oral argument than in written submissions.

[20] I characterize the issues to be decided here, largely tracking Mr. Lee's oral submissions and summary of the issues, as follows:

1. Transfer decision from Pacific Institution (Lalem) to Mountain Institution;
2. Request to provide direction to the PBC or CSC to provide services (Denial of Service); and,

3. Risk Assessment Challenge (seeking to be moved to a lower security facility).

Factual Background Emphasized by Mr. Lee

[21] Mr. Lee emphasized that the factual background to these applications included:

1. A recent risk assessment done by forensic psychologist, Dr. Druhn.
2. That assessment of the risk Mr. Lee poses must consider their social history and background. They argue that, as they have been imprisoned for approximately 36 years, this history is of institutionalization, and their experiences within the prison system as an Indigenous prisoner, as well as trauma and abuse they suffered as a child, must be taken into account.
3. There has been doubt raised about their Indigenous heritage, despite that they have produced proof of that heritage (including a copy of their grandfather's Métis registration card).
4. Their history of advocating for what they perceive their rights to be, or filing legal actions or complaints, should not be held against them in assessing their risk.
5. They have been following their healing plan, and participate in Indigenous spiritual and healing programming.
6. A Wiccan High Priestess and Chaplain, Ms. Savel, should be able to participate in a habeas corpus hearing if it goes ahead before this Court, or otherwise conduct a review of Mr. Lee's file, and Mr. Lee believes the CSC is interfering with this.

LAW

[22] The test for habeas corpus was set out in *Mission Institution v. Khela*, 2014 SCC 24 [Khela] at para. 30, (1) "the applicant must establish that [they have] been deprived of liberty." After that, (2) "the applicant must raise a legitimate ground upon which to question its legality." If the applicant is successful, "the onus shifts to the respondent authorities to show that the deprivation of liberty was lawful."

[23] A comprehensive statement of the law of habeas corpus is found in *Ewanchuk v. Canada (Attorney General)*, 2017 ABQB 237:

[21] Incarcerated persons are already detained, but habeas corpus may be employed to challenge a further loss of their "residual liberty". *Mission Institution v Khela* confirms *R v Miller*, [1985] 2 SCR 613, 24 DLR (4th) 9, which provided examples of the kinds of loss of residual liberty that may attract a habeas corpus remedy: administrative segregation, being confined in a special handling unit, and transfer to a higher security institution. Importantly, these identified categories represent a different physical environment for the prisoner, and one which offers less freedom.

- [22] What is equally important for this application is to understand what habeas corpus is not.
- [23] Habeas corpus is only relevant to current and ongoing detention. It does not apply to hypothetical future detention, or historic detentions. Habeas corpus is only a remedy for the here and now.
- [24] Habeas corpus has no application where a person complains they were denied release or a reduced form of detention: *Mapara v Ferndale Institution (Warden)*, 2012 BCCA 127 at para 15-16, 318 BCAC 139, leave denied [2012] SCCA No 217; *Biever v Alberta (Director of Edmonton Remand Centre)*, 2015 ABQB 609 at paras 33-35. Habeas corpus cannot be sought where the detention or form of detention is voluntary or caused by the detained person: *R v Blanchard*, 2011 SKCA 60 at para 13, 371 Sask R 270; *Biever v Alberta (Director of Edmonton Remand Centre)*, at para 32. Habeas corpus does not apply to persons who are under judicial interim release: *R v Barbour*, 2016 ABCA 161, 336 CCC (3d) 542.
- [25] Many conditions and circumstances in prisons are also not a basis for habeas corpus as these do not amount to a loss of liberty. *Le Dain J in R v Miller*, at para 35, stated habeas corpus does not apply to privileges:

... I do not say that habeas corpus should lie to challenge any and all conditions of confinement in a penitentiary or prison, including the loss of any privilege enjoyed by the general inmate population. But it should lie in my opinion to challenge the validity of a distinct form of confinement or detention in which the actual physical constraint or deprivation of liberty, as distinct from the mere loss of certain privileges, is more restrictive or severe than the normal one in an institution. [Emphasis added in *Ewanchuk*.]

1. Transfer Decision

- [24] The AG characterizes this as an application for habeas corpus concerning a decision of the Warden of Pacific Institution to transfer Mr. Lee from the Pacific Unit (where they were in the Lalem program featuring Indigenous programming) to the Mountain Institution. After a Warden's Board where Mr. Lee made submissions, the decision was made that they could remain at Lalem. Mr. Lee argued that the decision could be rescinded in the future, and that they are at Lalem as a guest, rather than pursuant to a more permanent placement. The AG says that there is no decision here to challenge because Mr. Lee was not, in fact, transferred.
- [25] Here, I find there is no grounding for a habeas corpus application regarding the proposed transfer. Mr. A habeas corpus application cannot be granted against a hypothetical future event. After a Warden's Board, the decision was made to keep Mr. Lee at the Lalem unit. This application for habeas corpus must fall, as Mr. Lee's belief that they may be moved in the future is not within the permissible scope of such an application.

2. Requests to Provide Direction to-or Order-the PBC or CSC to Take Specific Actions

- [26] The AG argued that this Court has no jurisdiction to grant the orders Mr. Lee seeks against the CSC or PBC. In oral submissions, Mr. Lee agreed with the AG that the order sought could not be granted against the PBC. Mr. Lee clarified that what they were seeking was an order that they be moved to the Circle of Eagles Lodge, which is a lower security facility within the CSC.
- [27] Mr. Lee argues that their treatment within the CSC including denial of access to computers, or technology, lack of at cost postage options-restrictions which they say impact their ability to participate in legal applications asserting their rights-amount to criminal contempt and a violation of their s. 7 Charter rights.
- [28] The AG relies on *Alam v. Matsqui Institution (Warden)*, 2022 BCSC 1115 [Alam], where the court found that matters such as those outlined are not habeas corpus matters, but rather should be addressed under the Corrections and Conditional Release Act, S.C. 1992, c. 20 [CCRA]:
- [50] In my opinion, Mr. Alam's habeas corpus application is bound to fail. I find that it is bound to fail for at least five reasons:
- a) the restriction of access to a computer, and access to the internet, are not complaints that fall within the limited scope of the writ of habeas corpus.
 - b) the remedy sought by Mr. Alam is clearly not "release".
 - c) the restriction on computer use applied to all inmates. Mr. Alam was not singled out.
 - d) the restrictions on computer use that formed the basis of Mr. Alam's application are no longer in place.
 - e) the type of relief that Mr. Alam is seeking is provided in the CCRA. There is a complete, comprehensive, and expert procedure for review of the administrative decisions of which Mr. Alam complains.
- [29] And further:
- [56] I come to the fifth conclusion, in part, based on my earlier findings that the limits on computer time were not a significant interference with Mr. Alam's residual liberty. There exists a grievance procedure to address Mr. Alam's complaint. This is not an area of overlapping or concurrent jurisdiction. As noted above, the only remedy available under habeas corpus is "release". That remedy is not engaged on these facts. Further, there exists, under the CCRA, a complete, comprehensive, and expert procedure for review of administrative decisions. That is the proper venue for Mr. Alam's complaints.

- [30] In *Alam v. Matsqui Institution (Warden)*, 2023 BCCA 12, the appellant Mr. Alam filed a notice of appeal, and the respondents sought an order requiring \$10,000 in security for costs for the appeal. The Court of Appeal ordered that the appellant post \$7,500 in security for costs and the appeal is stayed until the security is posted. Justice Marchand found that the appeal had little merit because the COVID-era computer restrictions which formed the basis of the complaint were no longer in place, rendering the appeal moot.
- [31] The complaints that Mr. Lee makes are not of the nature of habeas corpus. They are more properly addressed through the CCRA, which provides a complete, comprehensive, and expert procedure for review of the administrative decisions: *May v. Ferndale Institution*, 2005 SCC 82 at para. 50; *Khela* at para. 42; and, *Alam* at para. 50.
- [32] The AG argues that the matters are properly brought in Federal Court, citing *Alam*:
- [58] However, the nature of the prerogative writ is critically important in these circumstances because the other forms of relief are reserved for the Federal Court. The Federal Courts Act, R.S.C. 1985, c. F-7, reserves exclusive jurisdiction over the other prerogative writs to the Federal Court.

Extraordinary remedies, federal tribunals

18 (1) Subject to section 28, the Federal Court has exclusive original jurisdiction

- (a) to issue an injunction, writ of certiorari, writ of prohibition, writ of mandamus or writ of quo warranto, or grant declaratory relief, against any federal board, commission or other tribunal; and
 - (b) to hear and determine any application or other proceeding for relief in the nature of relief contemplated by paragraph (a), including any proceeding brought against the Attorney General of Canada, to obtain relief against a federal board, commission or other tribunal.
- [59] This Court has jurisdiction over habeas corpus. It has no jurisdiction in relation to the other prerogative writs.
- [33] The actions that Mr. Lee seeks to compel the CSC to take action are not properly brought before this Court, including their request that this Court provide direction regarding placement decisions or risk assessment within the CSC system. A grievance process exists within the CCRA, ultimately a judicial review of a decision made in that process lies to the Federal Court.
- [34] While *Gladue* principles must certainly be taken into account at all levels of a person's incarceration, including from trial through to incarceration, risk assessment, and decisions about parole, (also see also: *Twins v. Canada (Attorney General)*, 2016 FC 537; *Ewert v. Canada*, 2018 SCC 30), this Court does not have the jurisdiction to make the orders Mr. Lee seeks.

3. Request for Transfer to Lower Security Facility

- [35] Mr. Lee argues that they suffer a loss of residual liberty because they have not been transferred to a lower security institution within the CSC system (the Circle of Eagles Lodge is the placement they would like). They say that while they are not challenging the decisions of the PBC, that their continuing detention is unlawful. They argue that habeas corpus applications may be broader than just release of a prisoner, and that their continued incarceration is excessive and because of its extended nature, extends to a Charter violation of ss. 7, 9 and 12 (citing *R. v. Bissonnette*, 2022 SCC 23; *R. v. Gamble*, [1988] 2 S.C.R. 595, 1988 CanLII 15; and *R. v. Michael*, 2014 ONCJ 360 [Michael]). They raise additional concerns regarding the risk assessment reports and how they have been prepared or considered.
- [36] Mr. Lee cited Michael, where Justice Paciocco considered the inability of a person to pay a victim's surcharge and argues it should apply to their sentence:
- [75] Exposing those who are poor such as Mr. Michael to perpetual, unsatisfied, sentencing obligations also deprives them of the ability to repay their debt to society. Because they do not have the means to repay, they lose the opportunity to be restored. I do accept that many offenders lack the sophistication to delve into deep questions of legal philosophy and moral responsibility, and that is probably true of Mr. Michael. Still, the notion of just punishment has long carried the promise that after the eye is given for the eye, the offender has discharged their debt and reconciliation can begin. The whole idea of restorative justice legislatively endorsed in the Criminal Code, and recognized to be of cultural significance to aboriginal offenders such as Mr. Michael, depends on reconciliation. Indeed, some legal philosophers have justified punishment on the basis that it is a kindness to offenders to punish them since it permits them to heal. Whether this is persuasive or not, the flip side is. It is a cruelty in some measure to tell an offender that they must discharge an impossible sentence before their debt is expunged. Reducing all of this to a less ethereal plane, the point is that so long as Mr. Michael fails to pay the victim surcharge he remains indebted and criminalized. He has not paid the price for his crime and remains unrequited because he is poor. It is worth noting in my view that when it comes to the sentence of discretionary fines, the law avoids this consequence by prohibiting fines from being used to punish offenders who cannot pay.
- [37] The argument in Michael concerned a financial penalty. The Court found Mr. Michael only remained incarcerated due to poverty. That is not the case here.
- [38] The AG points out that the arguments Mr. Lee makes that their continued incarceration violates their Charter rights were addressed before the Court of King's Bench of Alberta. Justice Shelley in Lee #1 addressed a similar argument at paras. 145-151. Justice Shelley found that Gamble was not relevant because there was no question that Mr. Lee received a legal sentence and that the record in Mr. Lee's case does not meet the standard articulated in *Steele v. Mountain Institution*, [1990] 2 S.C.R. 1385, 1990 CanLII 50, such that despite being lawfully detained, they were subject to cruel and unusual punishment by circumstances of their incarceration. Justice Shelley refused jurisdiction to consider this aspect of Mr. Lee's habeas corpus application:

- [145] I come to this conclusion for two reasons. First, what Mr. Lee is ultimately doing is attempting to challenge a decision that refused to place Mr. Lee into a reduced detention state. Accepting Mr. Lee's allegations as factually correct, that refusal occurred at a preliminary point: but that still does not alter the character of his complaint. He is not saying he has experienced a deprivation of liberty, nor has his detention 'gone bad'. He is complaining about the alleged unlawful loss of an opportunity to move into a less restricted state. The law is clear on this point. habeas corpus is not available for this Court to review that decision of the Parole Board of Canada: *Dumas v Leclerc Institute*, at paras 12-13; *Mapara v Ferndale Institution (Warden)*, 2012 BCCA 127 at para 15-16, 318 BCAC 139, leave to appeal to SCC refused, 34818 (9 May 2012); *LVR v Mountain Institution*, 2016 BCCA 467 at paras 25-35, 346 CCC (3d) 254.
- [146] There is a second reason I come to the same conclusion. The Parole Board of Canada is a complete, comprehensive, and expert apparatus. Therefore its decisions, including to refuse to hear an application by an incarcerated person, are not subject to review by this Court. I am subject to binding authority on this point.
- [39] That reasoning applies here, and as a result, Mr. Lee's application must fail. Mr. Lee does not complain of changes of their detention which amount to a reduction of their residual liberty. As in *Lee #1*, Mr. Lee is complaining of an alleged unlawful loss of an opportunity to move into a less restrictive form of detention at the Circle of Eagles Lodge. This is not within the scope of the writ of habeas corpus.

CONCLUSION

- [40] Mr. Lee's applications are dismissed. Mr. Lee shall pay costs of \$600 to the respondent.

"A. Walkem J."

Appendix 1

Date filed

Order sought

Nov 23, 2022: Notice of Application

Habeas Corpus with Mandamus and Certiorari In Aid

72814

"order granting relief in the nature of habeas corpus with mandamus and certiorari in aid"

"s. 12 constitutional review for an s. 9 and s. 12 violation as per *R. v. Michael* ..."

"order to enter [Mr. Lee] into Lalem Healing Unit, or transfer the petitioner to a community healing lodge under s. 81 of the CCRA"

"refer to the PBC with directions ... to begin the reintegration process ... [or] to reconsider ETAs/Day/Full Parole ... "

"[declaration that] [Mr. Lee] is eligible to apply for parole every six months"

"s. 12 constitutional review [about] PERPETUAL extended ineligibilities for parole and remedy over-incarceration"

"order directing the respondents to comply with the [CCRA/Regulations] to find an alternative to incarceration " per Twins, Ewert, and Gladue

"PERPETUAL parole extended ineligibilities violate s. 7, s. 9, and s. 12 of the Charter as per R. v. Gamble habeas corpus is available in the operation of parole ..."

Jan 6, 2023: Motion for Criminal Contempt of Court

72814-2

"order for criminal contempt of court as per BCEGU" and "Tracie Savel will not suffer retaliation for her assistance to the court and Mr. Lee" and for "written permission" for Tracie Savel to "conduct a file review with impunity"

"costs in the amount of \$6,000.00 to be deducted from the amount owing to the Crown"

Jan 30, 2023: Motion Record for Criminal Contempt

72814-3

"order for criminal contempt of court per BCEGU"

"order to surrender to the possession of [Mr. Lee] all legal files and documents" and "Floppy Diskettes" and "all CDs/DVDs/USBs/" and "to provide a laptop computer"

"order to shield and forward all photocopies and faxes directly back to [Mr. Lee]"

"order to fax any and all documents of a legal nature"

"legal documents are not to be read or copied by prison officials"

"to put in place a method to send mail out without delay"

"to allow access to the savings account to purchase all legal needs including needed stationary from savings"

"to allow stamps sent into the prison or to allow Mr. Lee to purchase the denominator of stamps needed or the prison purchase a postal meter"

"order prohibiting retaliation against Tracie Savel of her job and from prison officials for her assistance to the court and [Mr. Lee]"

"order respondents and their counsel to give written permission to [Mr. Lee's] witness Tracie Savel that she can conduct a file review with impunity"

Feb 13, 2023: Amended Notice of Application

Amended Habeas Corpus with Mandamus and Certiorari in Aid

72814-4

"habeas corpus with certiorari and mandamus in aid seeking declaratory relief and challenges of for ... "

1 Excessive over incarceration absent a valid penal purpose has now crystalized into a disproportionately in a violation of s. 24 of the CCRA, s. 9 and s. 12 of the Charter,

2 Order for declaratory relief and

3 Prohibition order,

4 Criminal contempt order,

5 Declaratory relief that the PERPETUAL extended ineligibilities as per [Gamble and Bissionnette] are arbitrary, unreasonable amounts to an excessive punishment in violation of s. 9 and s. 12 of the Charter,

6 Adding punishment in violation of Charter s. 11(i) which also violates s. 7, s. 9, s. 11(i), s. 12 and perpetual violations of s. 15 (systemic discrimination identified [in] Gladue,

7 Failure to meet all legal needs in violation of s. 7 of the Charter as well

8 Failure to comply with the least restrictive measures and decisions to be fair and forthright under s. C, c1, c2, d, f, g, of the CCRA alternatives to incarceration,

9 An order to move [Mr. Lee] to a lesser form of punitive incarceration and alternatives to incarceration,

10 An order for any Indigenous Judge sit on this application or this application be forwarded to a Gladue Court for hearing this application

"an order in the nature of habeas corpus with mandamus and certiorari in aid"

"s. 12 constitutional review for an s. 9 and s. 12 violation as per R. v. Michael as per the full statutory scope for an s. 12 review follows: ... "

"order prohibiting the respondents from involuntarily removing Mr. Lee from Lalem Healing Lodge Unit for any reasons not risk relevant"

"order upon reading the current risk assessment done by Forensic Psychologist Doctor Nicholas Druhn [to] transfer Mr. Lee to a community healing lodge under s. 81 of the CCRA, or refer this matter directly to the PBC with directions to the PBC (Parole Board of Canada) to transfer Mr. Lee to a community Healing Lodge and direction to begin Mr. Lee's reintegration process by way of ETAs. In the alternative refer the matter back to the PBC for reconsideration for Day or full parole under s. 81 followed by ETAs"

"declaratory relief [that] Mr. Lee be eligible to apply for parole every six months after a denial of parole"

"a full statutory scope/scheme for an s. 24 of the CCRA and s. 12 constitutional reviews as a result of PERPETUAL extended ineligibilities for Day/full parole and PERPETUAL denials of ETAs, Day/full parole resulting with the over - incarceration of Mr. Lee..."

"order directing the respondents to comply with the [CCRA/Regulations] to find an alternative to incarceration and comply with directions of the Court rulings and findings as they Twins, Ewert, Gladue [by] finding an alternative to Mr. Lee's current form of incarceration and direct or refer this matter to the Warden CMT/CSC/PBC for reconsideration for alternatives to incarceration to remedy the PERPETUAL parole extended ineligibilities violating s. 7, s. 9 and s. 12 of the Charter as per R v. Gamble habeas corpus is available in the operation of parole..."

declaration that "Mr. Lee's rights under s. 9 and s. 12 have been violated"

declaration that "Mr. Lee's sentence has become disproportionate in the context of not serving a valid penal purpose than a less severe treatment or punishment"

"order Mr. Lee be moved to lesser/forms of punishment ..."

"order all legal needs for Mr. Lee be met including: access to a laptop computer Scanner and any other hardware and software Mr. Lee requires to apply all medium and minimum penitentiaries", "Legal CD/DVD/USB and Floppy Discs", and "All Mr. Lee's legal files/documents be issued to Mr. Lee to have in [their] possession at all times or to allow Mr. Lee to have four metal footlockers sent in to store the files in the institution ... "

"Mr. Lee's property card for legal items be separate as the computer property cards are/were currently or in the past"

"no restrictions to be imposed on Mr. Lee's savings account for legal or personal property needs"

"no restrictions on Mr. Lee's location to send legal faxes to any legal entity including any entity"

"order Pacific Institution Administration mail room [to] obtain a postal meter stamp giving inmates access to letter mail"

"order to put in place a method to prevent delays with sending legal mail out of the prison"

"order to place the \$5,000.00 award from the Class Action into [Mr. Lee's] current account as per the court order/agreement by the lawyers and the DOJ/AGC"

Feb 24, 2023: Notice of Application

"for certiorari with habeas corpus seeking an order for non-security ETA to file documents in the court and attend proceedings as required ..."

Feb 24, 2023: Motion Record for Offender Application to Judge

72814-5

"order any Aboriginal Judge sit on the hearing of [the habeas corpus application or an order this habeas corpus be sent to a Gladue Court"

"Aboriginal Judge sit on hearing this habeas corpus application"

"this habeas corpus application be sent to a Gladue court"

"Court file No's 72814-2&3 be conjoined"

"no costs unless the Crown seeks costs. Should the Crown seek costs then costs in the amount of \$600.00"

Feb 24, 2023: No. 1 Oral Charge to Judge

72814-3

"all legal needs including computer and data needs be met in the context of the least restrictive measure and the most expeditious methods be used in accordance to the rule of law as per BCEGU"

"order to release Mr. Lee by way of non-security escort to the court to file documents as required and to attend judicial proceedings as required"

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